

KAPLAN HECKER & FINK LLP

350 FIFTH AVENUE | 63RD FLOOR
NEW YORK, NEW YORK 10118

1050 K STREET NW | SUITE 1040
WASHINGTON, DC 20001

TEL (212) 763-0883 | FAX (212) 564-0883

WWW.KAPLANHECKER.COM

DIRECT DIAL 212.763.0886

DIRECT EMAIL jquinn@kaplanhecker.com

November 2, 2023

VIA ECF

The Honorable Lorna G. Schofield
United States District Court for the Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: McKoy, et al. v. The Trump Corporation, et al., No. 18-cv-09936 (LGS) (SLC)

Dear Judge Schofield:

We write on behalf of Plaintiffs to address two housekeeping matters.

First, we note that Defendants' October 24, 2023 submission included a notice of motion for an order dismissing Plaintiffs' claims without prejudice or severing and transferring Plaintiffs claims to federal district courts in California, Maryland, and Pennsylvania. ECF 642. For the reasons explained in our letter submitted earlier that same day, ECF 641, Plaintiffs oppose those courses of action and instead ask the Court to exercise its supplemental jurisdiction to bring Plaintiffs' claims to trial. Because the Court has heard from both parties on these issues according to the schedule and format that the Court directed, and given that the Court has already scheduled a conference on these issues for next week, we do not plan to submit a formal opposition to Defendants' submission, unless the Court would prefer that we do so. Of course, we will be ready to answer any questions the Court may have on November 8.

Second, we write to provide the Court with an update regarding the confidentiality of certain materials that Plaintiffs provisionally filed under seal, pursuant to sealing motions that remain pending, ECF 464, 529, 560, 577, 601, in accordance with the operative Protective Order, ECF 112 ¶ 16. A number of those materials have been de-designated by agreement and can now be unsealed. More specifically, following completion of briefing on the summary judgment and class certification filings, Plaintiffs challenged various designations of discovery material as "Confidential" by Defendants, ACN, the MGM Parties, and Anne Archer Butcher, and reached agreement on a number of items. As a result, certain materials that Plaintiffs provisionally filed under seal on the ground that they had been designated as "Confidential" by other producing parties have now been de-designated by agreement and may be unsealed.

KAPLAN HECKER & FINK LLP

2

The following docket numbers associated with exhibits to Plaintiffs' class certification and summary judgment papers may now be unsealed in their entirety:

- 466-1
- 534-3
- 534-5
- 534-6
- 534-7
- 534-8
- 534-9
- 534-10
- 534-11
- 534-12
- 534-14
- 534-15
- 534-17
- 534-18
- 534-19
- 534-20
- 534-21
- 534-22
- 534-24
- 534-26
- 534-27
- 534-28
- 534-30
- 534-31
- 534-35
- 534-36
- 534-37
- 564-1
- 564-3
- 582-3
- 582-4
- 609-1
- 609-2
- 609-3
- 609-4
- 609-6
- 609-9
- 609-12
- 609-13
- 609-14
- 609-15

KAPLAN HECKER & FINK LLP

3

In addition to the above, the various parties and non-parties have also agreed to partial designations of portions of Plaintiffs' class certification and summary judgment briefs, ECF 531, 532, 561, 562, 602, 603, 604, 605, 606, 607, as well as of certain deposition transcripts and documentary exhibits, ECF 534-1, 534-23, 609-5, 609-7, 609-8, 609-10 (personally identifiable information designations only), and 609-11. Plaintiffs are prepared to submit revised redactions as the Court may direct.

Respectfully submitted,



John C. Quinn

cc: All Counsel of Record (via ECF)

The Clerk of Court is respectfully directed to unseal in their entirety the filings identified on Page 2 of Plaintiffs' November 2, 2023, letter. Plaintiffs shall file revised redactions of the filings identified on Page 3 of Plaintiffs' November 2, 2023, letter by **November 10, 2023**.

Dated: November 3, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE